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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,926	01/02/2001	Veronique Mary	ST00001A-US	1240

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EXAMINER

MAIER, LEIGH C

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 09/09/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/782,926

Applicant(s)  
Mary

Examiner  
L igh Maier

Art Unit  
1623



-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 7 6) ☐ Other:

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## **DETAILED ACTION**

### ***Status of the Claims***

Claims 1-4 are pending.

### ***Information Disclosure Statement***

Applicant indicates that several references (\*\*-designated items) listed on PTO-1449 “have been previously cited in a related application(s) either by the applicant or by the USPTO and therefore copies of the reference(s) are not being submitted.” The examiner does not find these references in any application currently before her. Therefore, these references have not been considered. In order for these references to be considered, Applicant is requested to identify said related applications by serial number or submit copies of the references with the response to this action.

Further regarding the IDS, reference B2 notes that the full text of the translation is in file of corresponding U.S. (Provisional) Application 60/085,848. The title of reference B2 is “Use of Low-Molecular-Weight Heparins for Preventing and Treating Cerebral Edemas.” A review of the purportedly corresponding application finds it to be drawn to the preparation and use of transfection vectors. There appears to be no discussion of LMW heparin or cerebral edemas. Furthermore, the applications have no common inventors. It does not, in fact, appear to be the

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corresponding application for reference B2. Therefore, the only the abstract of this reference has been considered.

***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by PRATT et al (Haemostasis, 1998).

PRATT discloses the treatment of cerebral ischemia, induced by producing a photothrombotic lesion using rose bengal, by administration of a pharmaceutical composition comprising enoxaparin. Disclosed treatment comprises administration of enoxaparin at a dosage protocol of 0.5 mg/kg i.v. followed 15 min later by 2 mg/kg s.c. starting either 2, 6, or 18 hr after lesion formation. See abstract and page 80, right-hand column. Applicant's definition of an "effective amount" of enoxaparin is 0.2 mg/kg to 4 mg/kg per day s.c.

Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Physician's Desk Reference (49th edition, 1995).

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The PDR entry for Lovenox® (enoxaparin) discloses a unit dosage of 30 mg of enoxaparin in 0.3 mL water for injection. See paragraph bridging left-hand and middle column of page 1968. The intended use is not a patentable limitation.

*Examiner's hours, phone & fax numbers*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh Maier whose telephone number is (703) 308-4525. The examiner can normally be reached on Tuesday, Wednesday, or Friday 7:00 to 3:30 (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson (703) 308-4624, may be contacted. The fax phone number for Group 1600, Art Unit 1623 is (703) 308-4556 or 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-1235.

Visit the U.S. PTO's site on the World Wide Web at <http://www.uspto.gov>. This site contains lots of valuable information including the latest PTO fees, downloadable forms, basic search capabilities and much more.



Leigh C. Maier  
Patent Examiner  
September 6, 2002